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## FACSIMILE TRANSMITTAL

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**MAIL STOP** : ISSUE FEE

**FROM** : Gregory S. Smith

**EXAMINER** : Steve S. PAIK

**FAXED ON** : January 13, 2006

**FACSIMILE** : (571) 273-2885

**LAVA GROUP FILE #**: 01004.1030

**SUBJECT** : Payment of Issue Fee for Serial Number 10/812,219 filed on March 29, 2004

**This Transmission Includes the Following Items**

	Item being transmitted	Pages
<input checked="" type="checkbox"/>	Transmittal with Comments on Statement of Reasons for Allowance	2
<input checked="" type="checkbox"/>	Part B – Fees Transmittal Form	1
<input checked="" type="checkbox"/>	PTO 2038 Credit Card Authorization	1
<input type="checkbox"/>		
<input type="checkbox"/>		
<input type="checkbox"/>		
	<b>Total Pages Including Cover Sheet</b>	<b>5</b>

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**COMMENTS:**

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

**In Re Application of:**  
**Rabenold et al.**

Serial No.: 10/812,219

Filed: **March 29, 2004**

Title: **AUTOMATED CONDITION  
EVALUATOR**

§  
§ Group Art Unit: 2876  
§ Examiner: PAIK, Steve S  
§  
§ Atty. Docket #: 01004.1030  
§  
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§  
§  
§

### COMMENTS ON STATEMENT OF REASONS FOR ALLOWANCE

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**To the Office:**

On October 27, 2005 the Office mailed a Notice of Allowance and Fees(s) Due along with a Notice of Allowability. In the Notice of Allowability, the Office has set for various reasons for allowance and made certain allegations pertaining to various references.

It is hereby acknowledged that the positions taken in the examiner's statement of reasons for allowance is the personal opinion of the examiner as to why the claims are allowable. In accordance with MPEP 1304.14, the examiner's statement should not create an estoppel. But rather, only the applicant's statements should create an estoppel. In addition, the failure of the applicant to comment on the examiner's statement of reasons for allowance, or any portion thereof, should not be treated as acquiescence to the

examiner's statement. Any inferences or presumption are to be determined on a case-by-case basis by a court reviewing the patent, the USPTO examining the patent in a reissue application or a reexamination proceeding, the Board of Patent Appeals and Interferences reviewing the patent in an interference proceeding, etc.

Although the applicant acknowledges and agrees with the examiner's stated reasons for allowance of the pending claims, the applicant does not concede or admit that the examiner's stated reasons are the only reasons for allowability of the claims or the allowability of other claims based on the application that have either been previously presented or are subsequently presented in a continuation or continuation-in-part application.

MPEP 1304.14 also establishes that the applicant may set forth his or her position if he or she disagrees with the examiner's reasons for allowance. In general, the applicant hereby affirms each of the positions that the applicant has taken during the prosecution of this application.

If there are any questions, applicant respectfully requests the Office to call the applicant's attorney.

Respectfully submitted,

By: 

Gregory Scott Smith

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